



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

ELP  
Docket No. 2593-00  
22 September 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 3 July 1958 for a minority enlistment at age 17. The record reflects that you were advanced to SA (E-2) and served for six months without incident. However, during the 30-month period from January 1959 to June 1961 you received six nonjudicial punishments (NJP) and were convicted by a summary court-martial. Your offenses consisted of two instances of failure to obey a lawful order or regulation, providing test answers to another individual, failure to get up at reveille, and three brief periods of unauthorized absence totalling about one day.

On 18 September 1961 you were convicted by civil authorities of reckless driving and failing to have a registration. You were sentenced to eight days in jail and fined \$100. You were released to military authorities while your case was being appealed.

On 25 September 1961 you were convicted by a second summary court-martial of stealing a soldering iron, three brass cylinders, a five-gallon gasoline can, a flashlight, and a radio speaker, for a total value of about \$40.26. You were sentenced

to confinement at hard labor for one month, reduction in rate to SR (E-1) and a forfeitures of \$25. On the same day, you withdrew your appeal of the civil conviction and were remanded to jail to serve your sentence. You were released to military authorities on 10 October 1961 and began the confinement adjudged by the summary court-martial.

On 8 November 1961 you were restored to duty and the following day were notified that you were being processed for an undesirable discharge by reason of unfitness. You were advised of your procedural rights and waived your right to be represented by counsel and to present your case to an administrative discharge board (ADB). Thereafter, the commanding officer recommended an undesirable discharge. On 15 November 1961 the Chief of Naval Personnel directed an undesirable discharge by reason of unfitness due to frequent involvement of a discreditable nature with military or civilian authorities. You were so discharged on 21 November 1961.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, good post-service conduct, letters of reference, and the fact that it has been nearly 39 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of six NJPs, two summary courts-martial convictions, and a civil conviction. The Board noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. The Board concluded that you were guilty of too much misconduct to warrant recharacterization to honorable or under honorable conditions. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director